

II. REMARKS

Status of the Claims

Claims 1-12 are presented for further consideration.

Summary of the Office Action

Claims 1-3, 5-9, and 11-12 stand rejected under 35 USC102(e) based on the cited reference Brachaman, U.S. Patent No. 6,374,102. Claims 2 and 8 stand rejected under 35USC103(a) based on the reference Brachaman, in view of the cited reference Martin, International Pub. No. WO99,18741. Claims 3, 6, 9, and 11 stand rejected under 35USC103(a) based on the reference Brachaman in view of the cited reference Lord, et al, U.S. Patent No. 6,763,012. Claims 4 and 10 stand rejected under 35USC103(a) based on the reference Brachaman in view of the cited reference Forslow, U.S. Publication No. 2003/0039237. The Examiner is respectfully requested to reconsider his rejection in view of the the following remarks.

Discussion of the Cited Reference

The Examiner relies on the cited reference Brachaman as support for the rejection based on anticipation and as primary support for the rejection based on obviousness.

The Examiner has characterized the teaching of Brachaman as activating first, second, and third packet data protocol contexts, referring to column 9, lines, 1-32 of Brachaman. Although the cited reference mentions data services, the teaching focuses on voice communications and related features. For example in the Abstract:

"In accordance with the invention, a wireless telephone subscriber can use a standard cellular/PCS telephone as a wireless extension of their desktop phone, while in the proximity of a miniature radio base station capable of communicating with the PCS/cellular telephone. The advantage of such a system is that a subscriber can use the same cellular/PCS telephone that provides service in the public network in the wireless centrex environment. Additionally, the wireless centrex system provides services and features which are similar to those offered to regular centrex telephone subscribers. Exemplary features include, caller ID, call waiting, call hold, call transfer, call forwarding and voice messaging."

and at column 2, line 35-42:

".....having traditional centrex and PBX type services such as call waiting, call hold, call forwarding, caller ID, three party conference calling, and call messaging. The WCS also includes additional enhanced features like message services used for paging, call screening, call waiting, distinctive ringing, user proactive call handling, automatic callback, call return and speed calling."

A review of the disclosure reveals no teaching relating to the currently claimed subject matter, particularly with the respect to the utilization of packet data protocol contexts in communications between a packet radio network and a mobile termination part for reception and transmission of packet-switched data.

The disclosure of Brachaman, including the excerpts cited by the Examiner, concentrate on handling circuit switched speech calls. Accordingly, the teaching of Brachaman, is neither directly related or analogous to the subject application. Brachaman teaches voice telephony, while the subject application relates to transferring data packets between a network and a terminal device.

The cited portion of Brachaman at column 9, lines 1-32 relates to the setup of a conference call and in particular

the feature of adding a party to an existing call. The processing of a conference call, as described, is not the equivalent nor is it analogous to the specific steps in the activation and deactivation of packet data protocol contexts, as currently described in independent claims 1,7, and 12 of this application.

The establishment of the packet data protocol context is a bearer enabling, transmission of packet data generally in the nature of discontinuous bursts. A circuit-switched speech call, such as those in the cited excerpt from Brachaman, is a user service for continuous speech transmission. The fundamental difference is that, in the speech call, the transmission capacity is reserved during the entire duration of the circuit-switched speech call, whereas, in a packet radio system, the transmission channels are occupied only for the duration of the packet transfer. In the latter instance, capacity is available for use by others.

If one follows the suggestions of the office action, even though its validity is disputed, Brachaman does not disclose the combination of features, as currently claimed in this application. There is no feature that is analogous to the deactivating of the first context in response to the second context being activated. According to Applicant's interpretation of the office action, as best understood, an active call in the system of Brachaman would somehow be analogous to "a first packet data protocol context" of the subject claims and the conference call of Brachaman would somehow be analogous to "a second packet data protocol context" of the subject claims. However, Brachaman,

teaches, in column 9, lines 26-32 that a conference call set up is performed, while the active call is on hold. The analogy therefore fails because, according to the claims of this application, the first packet data protocol context is deactivated upon the activation of the second data protocol context.

In Brachaman there is a feature that, when a connection fails with a party to the conference call, a call on hold maybe recovered. The office action seems to indicate that this feature is the equivalent of the step, as currently claimed, of reactivating a third packet data context substantially conforming to the first, when said second context is deactivated. Such an expansion of the teaching of Brachaman would not have been obvious to a person skilled in the art and does not support the rejection either based on anticipation or obviousness.

Applicant submits that the Examiner's assertion, namely, that the circuit-switched call system of Brachaman is analogous to the operation of the packet radio system as currently claimed in this application is not supported by the references or the underlying technology.

The Issue of Anticipation

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of Brachaman would infringe the claims of this application, if it were later.

Claim 1 of this application is directed to a method of arranging packet data transmission that includes:

"activating a first packet data protocol context between said packet radio network and mobile termination part for reception and transmission of packet-switched data,

activating a second packet data protocol context between the packet radio network and the mobile termination part for a dial-up connection,

deactivating said first context in response to said second context being activated,

deactivating said second context in response to the dial-up connection being released, and

activating a third packet data protocol context, substantially conforming to said first context, in response to said second context being deactivated.

Since the system of Brachaman is incapable of performing any of the above features, there can be no infringement of Claim 1. Since equivalent language is contained in independent claims 7 and 12, the teaching of Brachaman does not support the rejection based on anticipation with respect to any of the claims.

The Issue of Obviousness

It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.

Applicant submits that the above described deficiencies of the primary reference Brachaman are not remedied by the proposed combination with the teachings of the references Martin, Lord, or Forslow, either individually or in combination. The combined references do not, therefore,

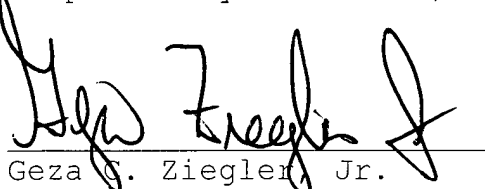
support a prima-facie case of obviousness. The modification of the teachings of Brachaman, Lord, and Forslow, in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

The above arguments apply equally to the rejected dependent claims.

For the above reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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